

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 596 of 1995

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

VINAYKUMAR PREMCHAND SOOD

Versus

STATE OF GUJARAT

Appearance:

MR CV PRAJAPATI for Petitioner

MR.B.D.DESAI AGP for Respondent No. 1, 2

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 16/06/97

ORAL JUDGEMENT

The petitioner, by way of this petition, challenges the orders dated 5-3-93 at Annexure "D" and dated 19-3-94 at Annexure "E" passed by the Police Commissioner, Ahmedabad City and the Deputy Secretary, Home Department, State of Gujarat, respectively.

By the said orders, the authorities have decided

not to renew the Arms Licence granted earlier to the petitioner and directed the petitioner to deposit the Arms Licence to the nearest Police Station and/or the Arms Dealer.

The petitioner was issued a show cause notice dated 23-9-91 by the Deputy Commissioner of Police, Traffic, Ahmedabad to show cause as to why the licence bearing No.1008/Navrangpura should not be cancelled as an offence has been registered being C.R.No.173/91 with Astodia Police Station under sections 353 and 506 (2) of the Indian Penal Code and section 25 (1) of the Arms Act. There is no dispute to the fact that the petitioner has been acquitted by the judgment and order dated 19-6-1992 passed by the learned Metropolitan Magistrate, Ahmedabad in the said Criminal Case. The learned Magistrate, while acquitting the petitioner, also directed to return the Muddamal revolver to the petitioner on the same terms and conditions. In spite of this fact, the Police Commissioner, Ahmedabad City, on 5-3-93 passed the impugned order not to renew the Arms Licence in favour of the petitioner. Mere reading of the said order it makes clear that the impugned order is passed with total non-application of mind inasmuch as a reliance has been placed on the fact that the petitioner is involved in Criminal Case No.173/93 registered with Astodia Police Station. In spite of the fact that the petitioner has already been acquitted as back as on 19-6-1992, the allegation regarding involvement of the petitioner in the criminal case has in fact become redundant and on that count the order not to renew the licence could not have been passed. The order at Annexure "E" passed by the Deputy Secretary is also bad in view of the fact that nothing has been discussed in the said order regarding the order of acquittal passed by the learned Magistrate in connection with the offence for which the petitioner was chargesheeted which is the basis not to renew the licence. In view of this, I am of the view that the impugned orders are bad in law inasmuch as the authorities have failed to take into consideration the relevant and vital fact of the order of acquittal passed in favour of the petitioner. If the allegation against the petitioner being involved in the criminal case is taken out, there remains no ground available with the authorities not to renew the licence .

Mr.B.D.Desai, learned AGP has produced the affidavit filed by R.S.Yadav, Deputy Commissioner of Police and contended that the petitioner is a dangerous person and is involved in Odhav massacre case. He has mainly placed reliance on the following averments made in

"3....I say that personal hearing was also given to the petitioner on 22-10-91 and hence after giving him full opportunity, the decision was taken for cancellation of his licence vide order No.J/656/A/1750 dated 5-3-93 though he was acquitted in the above case because as per report dated 19-10-92 and 20-2-93 of Police Inspector , Navrangpura a xerox copy of which is enclosed, he was reported to be a dangerous person as he is involved in Odhav Hatyacand case and amalgamated with Latif Gang. I, at this stage, beg to point out that acquittal of the petitioner in Cri.Case No.1469/91 vide judgment and order dated 19-6-92 by the Metropolitan Magistrate is technical one as the witnesses turned hostile and the complainant was not examined. It is also submitted that no untoward incident has been reported after cancellation of licence...."

After having gone through the reports dated 19-10-1992 and 20-2-93 of the Police Inspector, Navrangpura, I am of the view that except making allegation that the petitioner is involved in Odhav massacre case, no material whatsoever has been placed regarding the involvement of the petitioner in the said case. The petitioner has not been shown as an accused in the said case. In absence of any relevant material on record, the allegations made against the petitioner are required to be ignored.

In view of the aforesaid discussion, the petition is allowed and the orders at Annexures "D" and "E" dated 5-3-1993 and 19-3-1994 are quashed and set aside. Respondent No.2, Commissioner of Police, Ahmedabad City, is directed to reconsider his decision not to renew the licence issued to the petitioner and pass appropriate orders in accordance with law within four weeks from the date of receipt of the application for renewal by the petitioner. Rule is made absolute to the aforesaid extend with no order as to costs.

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